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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,327	12/04/2003	Craig S. Green	CGRN.001A	7357
20995	7590	11/17/2005		
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER JOHNSON, BLAIR M	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/728,327	<b>Applicant(s)</b> GREEN, CRAIG S.	
	<b>Examiner</b> Blair M. Johnson	<b>Art Unit</b> 3634	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Claim Rejections - 35 USC § 112***

Claims 4,7,15,19 and 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The "twist lock" has not been adequately disclosed or shown in the drawings.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,6,9,11-14,16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wynkoop in view of Stoudt and Dial.

Wynkoop discloses vertical tubes A, "elbow assembly" C1, which rotatably mount horizontal arms C to the vertical tubes, curtain sides and a roof, and a base member B. What is not shown are the legs that are adjustable in length and angularly adjustable. However, Stoudt discloses angularly adjustable legs. It would have been obvious to replace the flat base B or Wynkoop with such legs so as to more securely support the tent. Modifying the legs whereby they have an adjustable length would have been well known, as illustrated by Dial, who shows adjustable legs 29, so as to adjust the height of the tent.

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Providing three or more horizontal members at one vertical member, the material of the curtain, and the coating of the tubes are all well known features that would have been incorporated into the present device so as to achieve the known advantages thereof.

The twist lock is met as best understood in light of the lacking disclosure thereof.

Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wynkoop in view of Stoudt and Dial as applied above, and further in view of Ditch.

Providing a rubber cap for leg ends is well known as illustrated by Ditch and would have been an obvious addition to the legs of Stoudt so as to not mar the ground/floor.

Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wynkoop in view of Stoudt and Dial as applied above, and further in view of Raven.

Adding adjustability of the tent frame by providing horizontal members that are made up of plural members is well known and obvious, as illustrated by Raven.

Claims 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wynkoop in view of Stoudt and Dial as applied above, and further in view of Goharjou.

Providing vent holes to reducing wind pressure on the tent of Wynkoop is taught by Goharjou.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wynkoop in view of Stoudt and Dial as applied above, and further in view of Heise.

Providing a window so as to permit viewing through the tent of Wynkoop is taught by Heise.

Claims 26-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial in view of Stoudt.

In Dial, the portions around the perimeter of the tent, hanging down, are the side panels. Dial also provides vertical posts 29, elbow assembly 22, that has a horizontal portion that holds horizontal member 21, inclined roof support holder 23, roof support member having lower roof support bars 8, etc., and upper roof support bars 7, etc., and roof center support 3,4. What is not shown are the angularly adjustable legs for support of the canopy vertical posts. However, Stoudt discloses such discussed above and applied to Dial for the similar reasons as for it's application above.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dial in view of Stoudt and further in view of Heise.

Providing a window so as to permit viewing through the side panels of Stoudt is taught by Heise.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Blair M. Johnson  
Primary Examiner  
Art Unit 3634

BMJ  
11/14/05